THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.602 OF 1998

DATED: 26-2-2007

Between :

P. Sundaraiah and another .. Petitioners

And

The District Collector, Chittoor and
Others. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.602 OF 1998

ORDER :

The petitioners claim to be in possession of different extents of land situated in Sy.Nos.265/2, 266/1, 266/2, 323/2, 324/1 and 324/3 of Chighruvada Post, Tirupati (Rural) Mandal, Chittoor District. It is stated that the said lands have been in possession of the petitioner's family from the year 1933 onwards and that they have been cultivating the same. It is stated that though in the year 1981 the then Tahsildar, Chighruvada initiated proceedings under the A.P. Land Encroachment Act, 1905 alleging that the petitioners are in unauthorized occupation, ultimately the said proceedings were dropped after considering the explanation submitted by the petitioners.

In spite of the same, the 3rd respondent – Mandal Revenue Officer, Tirupati started interfering with the possession of the petitioners in the year 1998 and sought to evict them forcibly. Hence, this writ petition seeking a declaration that the action of the 3rd respondent in interfering with the possession of the petitioners in respect of the lands in question is arbitrary and illegal.

This Court while directing Rule Nisi, by order dated 6-1-1998 ordered that the respondents shall not interfere with the possession of the petitioners in respect of the land in question.

In the counter-affidavit filed on behalf of the Mandal Revenue Officer, Tirupati Rural, while denying the plea that the petitioners have been in possession and enjoyment of the land in question, it is stated that the lands are communal lands vested with the Government

free from all encumbrances. It is further stated that they are classified as Kalva (Channel) for the revenue account of Chiguruwada Vutharapu Kandriga Village, Tirupati Rural, Chittoor District and the petitioners have never been in possession.

Though an affidavit-in-reply has been filed by the petitioners disputing the version of the 3rd respondent, having regard to the fact that not only the title but even the possession claimed by the petitioners has been seriously disputed by the respondents, I am not inclined to grant the Mandamus as prayed for. The matter on the face of it involves several disputed questions of fact which cannot be enquired into and decided by this Court in a writ proceeding.

In the circumstances, without expressing any opinion on merits, the Writ Petition is disposed of leaving it open to the petitioners to work out the appropriate common law remedy as available under law for redressal of their grievance. However, having regard to the fact that the interim order granted by this Court has been in operation from the year 1998, there shall be a direction to the respondents to maintain Status quo obtaining as on today as to the nature and possession of the land in question for a period four months from today. No costs.

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G. ROHINI, J.

Dt. 26-2-2007

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